

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

DONALD A. GARDNER  
ARCHITECTS, INC. and  
DONALD A.  
GARDNER, INC.,

Plaintiffs,

V.

BON TON BUILDERS, INC. and :  
TONY R. FORBES, :

Defendants.

[illegible]

Civil Action No.

## Jury Trial Demanded

## COMPLAINT

Plaintiffs Donald A. Gardner Architects, Inc. and Donald A. Gardner, Inc. (collectively “DAG”) complain of Bon Ton Builders, Inc. (“BTB”) and Tony R. Forbes (“Forbes”), and for cause would show the following:

## Parties, Jurisdiction, and Venue

1. Donald A. Gardner Architects, Inc. and Donald A. Gardner, Inc. are South Carolina corporations.

2. Donald A. Gardner, Inc. is a wholly-owned affiliate of Donald A. Gardner Architects, Inc.

3. BTB is a Pennsylvania corporation. Service of process may be had upon it by service upon its President, Defendant Tony R. Forbes, at BTB's registered

office, 1060 Baltimore Street, Hanover, PA 17331, or wherever Forbes may be found.

4. Forbes is an individual residing in this district. Service of process may be had upon him at his place of business, 1060 Baltimore Street, Hanover, PA 17331, or wherever he may be found.

5. This is a case for copyright infringement and violations of the Digital Millennium Copyright Act (17 U.S.C. § 1201 *et seq.*; the “DMCA”). This Court therefore has exclusive subject matter jurisdiction pursuant to 28 U.S.C. § 1338.

6. Venue is proper pursuant to 28 U.S.C. § 1400(a) because both Defendants may be found in this district.

### **Factual Background**

7. DAG is a building design firm in the business of creating “architectural works” (as that term is defined in Title 17, United States Code) and licensing the use of architectural works, as well as technical drawings and renderings that depict such architectural works, that DAG has created.

8. DAG<sup>1</sup> is the creator and sole owner of the copyrights in the following architectural works (hereinafter, the “Architectural Works”) and “pictorial,

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<sup>1</sup> Copyrights of Works with a plan number below 700 are owned by Donald A. Gardner Architects, Inc., and copyrights of Works with a plan number above 700 are owned by Donald A. Gardner, Inc.

graphical, and sculptural works” (hereinafter, the “PGS Works”) as defined in Title 17, United States Code:

- 1) DAG Plan No. W-1528 (a/k/a “Sloan”). DAG has registered its copyrights in this architectural work, as evidenced by Certificate of Registration No. VA 2-141-728, and this PGS Work, as evidenced by Certificate of Registration No. VA 2-154-847.
- 2) DAG Plan No. W-395 (a/k/a “Anderson”). DAG has registered its copyrights in this architectural work, as evidenced by Certificates of Registration No. VA 1-381-240, and this PGS Work, as evidenced by Certificates of Registration Nos. VA 575-484 and VAu 533-050.
- 3) DAG Plan No. W-921 (a/k/a “Ivy Creek”). DAG has registered its copyrights in this architectural work, as evidenced by Certificate of Registration No. VA 1-107-755, and this PGS Work, as evidenced by Certificates of Registration Nos. VA 1-108-067 and VAu 533-041.
- 4) DAG Plan No. W-1497 (a/k/a “Thomasina”). DAG has registered its copyrights in this architectural work, as evidenced by Certificate of Registration No. VA 2-115-833, and this PGS Work, as evidenced by Certificate of Registration No. VAu 1-326-859.
- 5) DAG Plan No. W-1127 (a/k/a “Robertson”). DAG has registered its copyrights in this architectural work, as evidenced by Certificate of

- Registration No. VA 1-381-235, and this PGS Work, as evidenced by Certificate of Registration No. VA 1-334-014.
- 6) DAG Plan No. W-817 (a/k/a “Crabtree”). DAG has registered its copyrights in this architectural work, as evidenced by Certificate of Registration No. VA 981-550, and this PGS Work, as evidenced by Certificates of Registration Nos. VA 991-884 and VAu 484-603.
- 7) DAG Plan No. W-1426 (a/k/a “Anna”). DAG has registered its copyrights in this architectural work, as evidenced by Certificate of Registration No. VA 2-043-198, and this PGS Work, as evidenced by Certificate of Registration No. VA 2-034-717.
- 8) DAG Plan No. W-503 (a/k/a “Ryley”). DAG has registered its copyrights in this architectural work, as evidenced by Certificate of Registration No. VA 859-832, and this PGS Work, as evidenced by Certificates of Registration Nos. VA 859-833 and VAu 459-876.
- 9) DAG Plan No. W-884 (a/k/a “Hazelwood”). DAG has registered its copyrights in this architectural work, as evidenced by Certificate of Registration No. VA 1-034-530, and this PGS Work, as evidenced by Certificates of Registration Nos. VA 999-925 and VA 1-324-605.
- 10) DAG Plan No. W-1341 (a/k/a “Tucker”). DAG has registered its copyrights in this architectural work, as evidenced by Certificate of

Registration No. VA 1-839-553, and this PGS Work, as evidenced by Certificate of Registration No. VA 2-013-489.

- 11) DAG is awaiting certificates from the United States Copyright Office for Plan No. W-1564 (a/k/a “Virgil”).
- 12) DAG Plan No. W-752 (a/k/a “Jellicoe”). DAG has registered its copyrights in this architectural work, as evidenced by Certificate of Registration No. VA 22-144, and this PGS Work, as evidenced by Certificates of Registration Nos. VA 722-143 and VAu 498-884.
- 13) DAG Plan No. W-757 (a/k/a “Tanglewood”). DAG has registered its copyrights in this architectural work, as evidenced by Certificate of Registration No. VAu 434-621, and this PGS Work, as evidenced by Certificates of Registration Nos. VAu 447-151 and VAu 484-580.
- 14) DAG Plan No. W-1438 (a/k/a “Sydney”). DAG has registered its copyrights in this architectural work, as evidenced by Certificate of Registration No. VA 2-034-653, and this PGS Work, as evidenced by Certificate of Registration No. VA 2-163-133.
- 15) DAG Plan No. W-1229 (a/k/a “Carrollton”). DAG has registered its copyrights in this architectural work, as evidenced by Certificate of Registration No. VA 1-627-084.

- 16) DAG Plan No. W-1030 (a/k/a “Dewfield”). DAG has registered its copyrights in this architectural work, as evidenced by Certificate of Registration No. VA 1-250-173, and this PGS Work, as evidenced by Certificate of Registration No. VA 1-235-860.
- 17) DAG Plan No. W-1024 (a/k/a “Franklin”). DAG has registered its copyrights in this architectural work, as evidenced by Certificate of Registration No. VA 1-212-356, and this PGS Work, as evidenced by Certificates of Registration Nos. VA 1-265-358 and VA 1-283-969.
- 18) DAG Plan No. W-773 (a/k/a “Lochmere”). DAG has registered its copyrights in this architectural work, as evidenced by Certificate of Registration No. VA 949-072, and this PGS Work, as evidenced by Certificates of Registration Nos. VAu 447-152 and VAu 469-807.
- 19) DAG Plan No. W-1366 (a/k/a “Rowan”). DAG has registered its copyrights in this architectural work, as evidenced by Certificate of Registration No. VA 1-923-104.
- 20) DAG Plan No. W-1542 (a/k/a “Nigel”). DAG has registered its copyrights in this architectural work, as evidenced by Certificate of Registration No. VA 2-162-167.

- 21) DAG Plan No. W-1326 (a/k/a “Hunter Creek”). DAG has registered its copyrights in this architectural work, as evidenced by Certificates of Registration Nos. VAu 1-089-323 and VA 1-882-092.
- 22) DAG Plan No. W-976 (a/k/a “Wilshire”). DAG has registered its copyrights in this architectural work, as evidenced by Certificate of Registration No. VA 1-180-027, and this PGS Work, as evidenced by Certificates of Registration Nos. VA 1-159-727 and VA 1-180-108.
- 23) DAG Plan No. W-1218 (a/k/a “Whitcomb”). DAG has registered its copyrights in this architectural work, as evidenced by Certificate of Registration No. VA 1-430-378.
- 24) DAG Plan No. W-1377 (a/k/a “Forest Grove”). DAG has registered its copyrights in this architectural work, as evidenced by Certificate of Registration No. VA 2-056-921, and this PGS Work, as evidenced by Certificate of Registration No. VA 2-048-593.
- 25) DAG Plan No. W-1302 (a/k/a “Bluestone”). DAG has registered its copyrights in this architectural work, as evidenced by Certificate of Registration No. VAu 1-075-255, and this PGS Work, as evidenced by Certificate of Registration No. VA 2-013-488.
- 26) DAG Plan No. W-1563 (a/k/a “Henriette”). DAG has registered its copyrights in this architectural work, as evidenced by Certificate of

Registration No. VA 2-163-094, and this PGS Work, as evidenced by Certificate of Registration No. VA 2-261-284.

27) DAG Plan No. W-1559 (a/k/a “Millicent”). DAG has registered its copyrights in this architectural work, as evidenced by Certificate of Registration No. VA 2-157-312, and this PGS Work, as evidenced by Certificate of Registration No. VA 2-223-103.

28) DAG Plan No. W-1328 (a/k/a “Bosworth”). DAG has registered its copyrights in this architectural work, as evidenced by Certificate of Registration No. VAu 1-097-920, and this PGS Work, as evidenced by Certificate of Registration No. VA 1-894-232.

29) DAG Plan No. W-1516 (a/k/a “Coppernorth”). DAG has registered its copyrights in this PGS Work, as evidenced by Certificate of Registration No. VAu 1-344-878.

30) DAG Plan No. W-1412 (a/k/a “Janson”). DAG has registered its copyrights in this architectural work, as evidenced by Certificate of Registration No. VA 1-921-573, and this PGS Work, as evidenced by Certificate of Registration No. VA 2-093-648.

31) DAG Plan No. W-714 (a/k/a “Huntington”). DAG has registered its copyrights in this architectural work, as evidenced by Certificate of



Registration No. VA 1-324-598, and this PGS Work, as evidenced by Certificates of Registration Nos. VAu 453-576 and VA 1-324-597.

32) DAG Plan No. W-1548 (a/k/a “Dahlia”). DAG has registered its copyrights in this architectural work, as evidenced by Certificate of Registration No. VA 2-157-314.

33) DAG Plan No. W-1262 (a/k/a “Whitney”). DAG has registered its copyrights in this architectural work, as evidenced by Certificate of Registration No. VAu 1-025-499.

34) DAG Plan No. W-1519 (a/k/a “Fillion”). DAG has registered its copyrights in this architectural work, as evidenced by Certificates of Registration No. VA 2-138-812.

35) DAG Plan No. W-1300 (a/k/a “Lennon”). DAG has registered its copyrights in this architectural work, as evidenced by Certificate of Registration No. VAu 1-075-232, and this PGS Work, as evidenced by Certificate of Registration No. VA 1-894-290.

36) DAG Plan No. W-1499 (a/k/a “Gellar”). DAG has registered its copyrights in this architectural work, as evidenced by Certificate of Registration No. VA 2-138-526.

- 37) DAG Plan No. W-1029 (a/k/a “Greensboro”). DAG has registered its copyrights in this architectural work, as evidenced by Certificate of Registration No. VA 1-216-703.
- 38) DAG Plan No. W-1287 (a/k/a “Hardesty”). DAG has registered its copyrights in this architectural work, as evidenced by Certificate of Registration No. VAu 1-060-556.
- 39) DAG Plan No. W-1289 (a/k/a “Peyton”). DAG has registered its copyrights in this architectural work, as evidenced by Certificate of Registration No. VAu 1-064-984.
- 40) DAG Plan No. W-967 (a/k/a “Satchwell”). DAG has registered its copyrights in this architectural work, as evidenced by Certificate of Registration No. VA 1-159-422, and this PGS Work, as evidenced by Certificates of Registration Nos. VA 1-148-620 and VA 1-368-549.
- 41) DAG Plan No. W-1556 (a/k/a “Artemis”). DAG has registered its copyrights in this architectural work, as evidenced by Certificate of Registration No. VA 2-157-309.
- 42) DAG Plan No. W-1285 (a/k/a “Marley”). DAG has registered its copyrights in this architectural work, as evidenced by Certificate of Registration No. VAu 1-064-976.

- 43) DAG Plan No. W-983 (a/k/a “Jonesboro”). DAG has registered its copyrights in this architectural work, as evidenced by Certificate of Registration No. VA 1-159-730, and this PGS Work, as evidenced by Certificates of Registration Nos. VA 1-180-132 and VA 1-292-284.
- 44) DAG Plan No. W-1415 (a/k/a “Lucy”). DAG has registered its copyrights in this architectural work, as evidenced by Certificate of Registration No. VA 2-030-084, and this PGS Work, as evidenced by Certificate of Registration No. VA 2-045-668.
- 45) DAG Plan No. W-1100 (a/k/a “Gilmore”). DAG has registered its copyrights in this architectural work, as evidenced by Certificate of Registration No. VA 1-305-957, and this PGS Work, as evidenced by Certificates of Registration Nos. VA 1-307-398 and VA 1-359-191.
- 46) DAG Plan No. W-1419 (a/k/a “Cline”). DAG has registered its copyrights in this architectural work, as evidenced by Certificate of Registration No. VA 2-033-336, and this PGS Work, as evidenced by Certificate of Registration No. VA 2-052-411.
- 47) DAG Plan No. W-502 (a/k/a “Delaney”). DAG has registered its copyrights in this architectural work, as evidenced by Certificate of Registration No. VA 865-534, and this PGS Work, as evidenced by Certificates of Registration Nos. VA 865-533 and VAu 477-972.

- 48) DAG Plan No. W-974 (a/k/a “Madaridge”). DAG has registered its copyrights in this architectural work, as evidenced by Certificate of Registration No. VA 1-180-005, and this PGS Work, as evidenced by Certificates of Registration Nos. VA 1-159-729 and VA 1-180-044.
- 49) DAG Plan No. W-1406 (a/k/a “Roark”). DAG has registered its copyrights in this architectural work, as evidenced by Certificate of Registration No. VA 1-923-105, and this PGS Work, as evidenced by Certificate of Registration No. VAu 1-238-215.
- 50) DAG Plan No. W-1016 (a/k/a “Violet”). DAG has registered its copyrights in this architectural work, as evidenced by Certificate of Registration No. VA 1-192-928, and this PGS Work, as evidenced by Certificates of Registration Nos. VA 1-226-708 and VA 1-235-854.
- 51) DAG Plan No. W-923 (a/k/a “Colthorpe”). DAG has registered its copyrights in this architectural work, as evidenced by Certificate of Registration No. VA 1-326-130, and this PGS Work, as evidenced by Certificate of Registration No. VA 1-097-766.
- 52) DAG Plan No. W-973 (a/k/a “Smythe”). DAG has registered its copyrights in this architectural work, as evidenced by Certificate of Registration No. VA 1-180-015, and this PGS Work, as evidenced by Certificate of Registration No. VA 1-199-103.

- 53) DAG Plan No. W-970 (a/k/a “Applemoor”). DAG has registered its copyrights in this architectural work, as evidenced by Certificate of Registration No. VA 1-159-425, and this PGS Work, as evidenced by Certificates of Registration Nos. VA 1-148-618 and VA 1-199-106.
- 54) DAG Plan No. W-920 (a/k/a “Hillandale”). DAG has registered its copyrights in this architectural work, as evidenced by Certificate of Registration No. VA 1-107-763, and this PGS Work, as evidenced by Certificates of Registration Nos. VA 1-108-071 and VAu 533-049.
- 55) DAG Plan No. W-1163 (a/k/a “Sorenson”). DAG has registered its copyrights in this architectural work, as evidenced by Certificate of Registration No. VA 1-395-536.
- 56) DAG Plan No. W-1094 (a/k/a “Stonebridge”). DAG has registered its copyrights in this architectural work, as evidenced by Certificate of Registration No. VA 1-325-634, and this PGS Work, as evidenced by Certificate of Registration No. VA 1-317-355.
- 57) DAG Plan No. W-1177 (a/k/a “Kellson”). DAG has registered its copyrights in this architectural work, as evidenced by Certificate of Registration No. VA 1-405-190.

58) DAG Plan No. W-1313 (a/k/a “St. Regis”). DAG has registered its copyrights in this architectural work, as evidenced by Certificates of Registration No. VA 1-802-358 and VA 1-890-106.

59) DAG Plan No. W-1503 (a/k/a “Percy”). DAG has registered its copyrights in this architectural work, as evidenced by Certificate of Registration No. VA 2-115-846, and this PGS Work, as evidenced by Certificate of Registration No. VA 2-142-076.

60) DAG Plan No. W-1244 (a/k/a “Chestnut Hill”). DAG has registered its copyrights in this architectural work, as evidenced by Certificate of Registration No. VA VA 1-676-002.

61) DAG Plan No. W-1153 (a/k/a “Valmead Park”). DAG has registered its copyrights in this architectural work, as evidenced by Certificate of Registration No. VA 1-362-068.

9. Each of the Architectural Works listed above is an original work that is copyrightable subject matter under federal law. Each Architectural Work constitutes and contains material wholly original to DAG, including the overall look and feel of the works, and the selection and arrangement of the constituent parts of the work. Each of the Architectural Works is DAG’s original creation and was not copied from the works of others, and has been fixed in a tangible medium of expression. The various aspects of each Work came from the designer’s own mind and creativity,

including the arrangement, composition, and proportions of exterior features; the shape, size, location, and proportions of interior spaces; the elements and placement of design features; and the placement of architectural details.

10. Putting together all of the pieces and shapes that make up each of the Architectural Works is a product of the designer's creativity. The overall configuration and arrangement of spaces, elements, and features in the design is not a collection or compilation of standard rooms and elements of pre-existing forms. To the contrary, the shapes and sizes of the rooms and spaces, the shapes and sizes of the exterior elements and features, and the piecing together and placement of all of the spaces, design features, and other architectural details to fit them into an overall whole come from the mind and creativity of the designer as the design was being created.

11. In creating each of the Architectural Works, DAG had many different architectural and design styles and hybrid styles to choose from, both as to the exterior and interior; a wide range of possible overall square footages; infinite variations of the shape of the exterior "footprint" and exterior elevations; and infinite variations of how and where the designer placed rooms and spaces together within the footprint and how these in turn affected the exterior elevations; all of which came

from the designer's hard work, imagination, and creativity, and not through collecting and assembling standard or pre-existing forms.

12. Each of the PGS Works listed above is also an original work that is copyrightable subject matter under federal law. Each work constitutes and contains material wholly original to DAG, including the overall look and feel of the works, and the selection and arrangement of the constituent parts of the work. Each of the PGS Works is DAG's original creation and was not copied from the works of others, and has been fixed in a tangible medium of expression.

13. To protect its work, DAG placed "copyright management information," as that term is used in 17 U.S.C. § 1202, on copies of the Architectural Works and the PGS Works. This copyright management information includes a copyright notice and the title of the work, both of which are copyright management information as defined in 17 U.S.C. § 1202(c).

14. At all relevant times, this copyright management information was placed on both physical and electronic copies of the Architectural Works and PGS Works, including electronic copies of such works displayed on the DAG website: <https://www.dongardner.com/>. The Architectural Works and PGS Works were displayed on individual pages that included copyright management information, including the DAG copyright notice and the title of the work.



15. BTB is a home builder, and, according to its website, has been in business over 40 years.

16. It is well known in the homebuilding industry, especially since the passage of the Architectural Works Copyright Protection Act of 1990, that it is illegal and improper to reproduce, distribute, and create derivative works from architectural works and other copyrighted materials without the permission of the copyright owner.

17. As BTB has been in the homebuilding business for decades, BTB has known or should have known that reproducing, distributing, and creating derivative works from architectural works and other copyrighted materials without the permission of the copyright owner is illegal and improper.

18. Forbes is the owner of BTB. As such, at all material times, he has had a direct financial interest in all of BTB's activities, including those complained of in this lawsuit.

19. Forbes is the President of BTB. As such, at all material times, he has had the legal power, ability, and responsibility to supervise and control all of BTB's activities, including those complained of in this lawsuit.

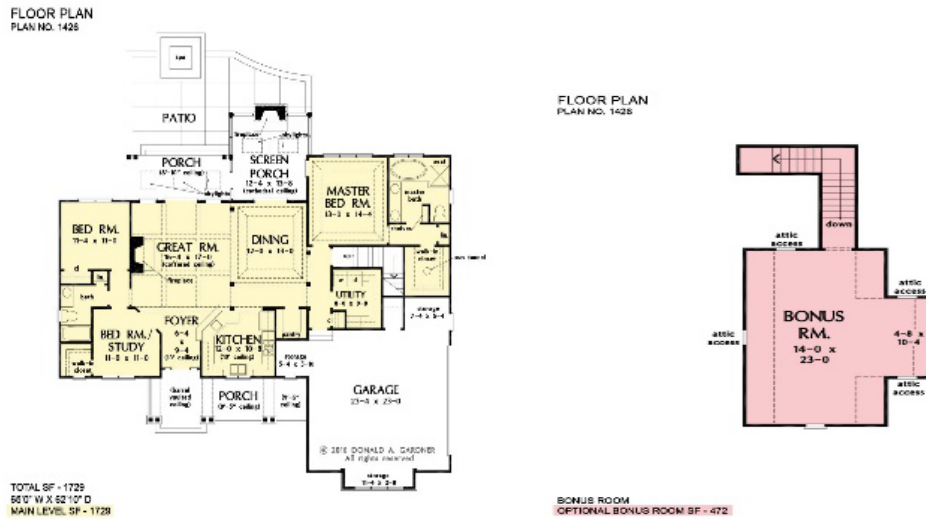
20. In February 2023, DAG discovered that BTB was displaying and distributing copies of each of the Architectural Works and the PGS Works listed above by depicting them on BTB's website, [www.bontonbuilders.com](http://www.bontonbuilders.com). As detailed

below, these copies were literal copies of the Architectural Works and PGS Works, except that DAG's copyright management information had been removed, and a fictitious title had been placed on the BTB copies of the Works.

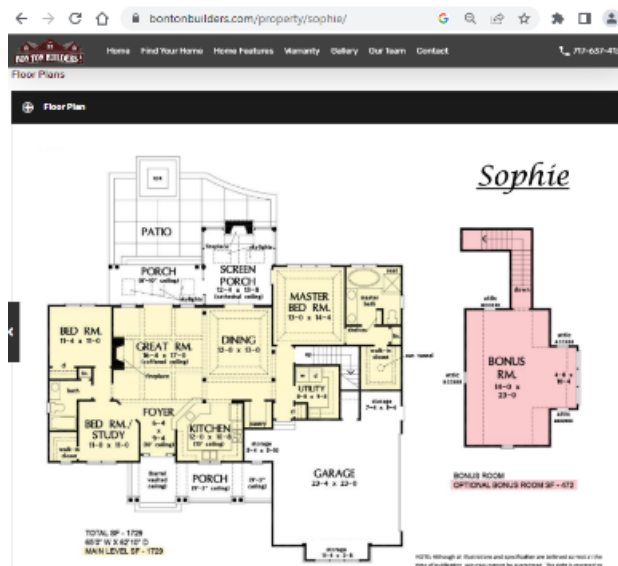
21. DAG sent a cease and desist letter to BTB on April 19, 2023, advising BTB that its illegal use of DAG's Architectural Works and PGS Works constituted copyright infringement and demanding that BTB immediately cease such use. DAG's letter further outlined numerous DMCA § 1202 violations by BTB and warned that the construction, marketing, and/or sale of any houses built from unauthorized copies or modified versions of DAG's copyrighted designs constitutes copyright infringement and violation of DAG's legal rights.

22. Despite being on actual notice of DAG's claims, BTB continued to display and distribute copies of DAG's Architectural Works and PGS works on its Instagram account until at least May 16, 2023, when DAG's attorney contacted BTB's counsel once again regarding BTB's copyright infringement.

23. For an example of BTB's piracy of DAG's Architectural Works and PGS Works, here is a copy of the floorplan of DAG's Plan No. W-1426, titled "The Anna", which is displayed on the DAG website at <https://www.dongardner.com/house-plan/1426/the-anna>, under the title "The Anna, House Plan #W-1426":



24. Here is the floorplan that was distributed by the BTB webpage at <https://www.bontonbuilders.com/property/sophie/>:



25. These drawings are identical except for the removal of the DAG copyright notice in the garage area of the first floor.

26. The BTB copy of the DAG Architectural Work and PGS Work has

removed the title of the DAG work (“Plan No. W-1426 / Anna”).

27. BTB has distributed this copy of the DAG Architectural Work and PGS Work under the title “Sophie.” DAG has never used that as a title of these Works, and “Sophie” is a false title for them.

28. BTB has similarly reproduced exact copies of the other Architectural Works and PGS Works listed above, removing DAG’s copyright management information and distributing copies of those Works under false titles:

- 1) BTB’s “Emma” work, which was distributed by the BTB webpage at <https://www.bontonbuilders.com/property/emma-2>, is a copy of DAG’s Plan No. 1528 / Sloan.
- 2) BTB’s “Zander” work, which was distributed by the BTB webpage at <https://www.bontonbuilders.com/property/zander-2/>, is a copy of DAG’s Plan No. 395 / Anderson.
- 3) BTB’s “Arlo” work, which was distributed by the BTB webpage at <https://www.bontonbuilders.com/property/arlo/>, is a copy of DAG’s Plan No. 921 / Ivy Creek.
- 4) BTB’s “Darby” work, which was distributed by the BTB webpage at <https://www.bontonbuilders.com/property/darby/>, is a copy of DAG’s Plan No. 1497 / Thomasina.
- 5) BTB’s “Avery” work, which was distributed by the BTB webpage at

<https://www.bontonbuilders.com/property/avery/>, is a copy of DAG's Plan No. 1127 / Robertson.

- 6) BTB's "Rosemary" work, which was distributed by the BTB webpage at <https://www.bontonbuilders.com/property/rosemary/>, is a copy of DAG's Plan No. 817 / Crabtree.
- 7) BTB's "Sophie" work, which was distributed by the BTB webpage at <https://www.bontonbuilders.com/property/sophie/>, is a copy of DAG's Plan No. 1426 / Anna.
- 8) BTB's "Quinten" work, which was distributed by the BTB webpage at <https://www.bontonbuilders.com/property/quinten/>, is a copy of DAG's Plan No. 503 / Ryley.
- 9) BTB's "Irelyn" work, which was distributed by the BTB webpage at <https://www.bontonbuilders.com/property/irelyn-2/>, is a copy of DAG's Plan No. 884 / Hazelwood.
- 10) BTB's "Ryder" work, which was distributed by the BTB webpage at <https://www.bontonbuilders.com/property/ryder/>, is a copy of DAG's Plan No. 1341 / Tucker.
- 11) BTB's "Lydon" work, which was distributed by the BTB webpage at <https://www.bontonbuilders.com/property/lydon/>, is a copy of DAG's Plan No. 1564 / Virgil.

- 12) BTB's "Farren" work, which was distributed by the BTB webpage at <https://www.bontonbuilders.com/property/farren-2/>, is a copy of DAG's Plan No. 752 / Jellicoe.
- 13) BTB's "Harper" work, which was distributed by the BTB webpage at <https://www.bontonbuilders.com/property/harper-2/>, is a copy of DAG's Plan No. 757 / Tanglewood.
- 14) BTB's "Maxwell" work, which was distributed by the BTB webpage at <https://www.bontonbuilders.com/property/maxwell/>, is a copy of DAG's Plan No. 1438 / Sydney.
- 15) BTB's "Bexley" work, which was distributed by the BTB webpage at <https://www.bontonbuilders.com/property/bexley-2/>, is a copy of DAG's Plan No. 1229 / Carrollton.
- 16) BTB's "Tanner" work, which was distributed by the BTB webpage at <https://www.bontonbuilders.com/property/tanner/>, is a copy of DAG's Plan No. 1030 / Dewfield.
- 17) BTB's "Tucker" work, which was distributed by the BTB webpage at <https://www.bontonbuilders.com/property/tucker/>, is a copy of DAG's Plan No. 1024 / Franklin.
- 18) BTB's "Vaughn" work, which was distributed by the BTB webpage at <https://www.bontonbuilders.com/property/vaughn/>, is a copy of DAG's

Plan No. 773 / Lochmere.

19) BTB's "Vivian" work, which was distributed by the BTB webpage at <https://www.bontonbuilders.com/property/vivian/>, is a copy of DAG's Plan No. 1366 / Rowan.

20) BTB's "Weylyn" work, which was distributed by the BTB webpage at <https://www.bontonbuilders.com/property/weylyn-2/>, is a copy of DAG's Plan No. 1542 / Nigel.

21) BTB's "Wyatt" work, which was distributed by the BTB webpage at <https://www.bontonbuilders.com/property/wyatt-2/>, is a copy of DAG's Plan No. 1326 / Hunter Creek.

22) BTB's "Lucas" work, which was distributed by the BTB webpage at <https://www.bontonbuilders.com/property/lucas/>, is a copy of DAG's Plan No. 976 / Wilshire.

23) BTB's "Madison" work, which was distributed by the BTB webpage at <https://www.bontonbuilders.com/property/madison/>, is a copy of DAG's Plan No. 1218 / Whitcomb.

24) BTB's "Marian" work, which was distributed by the BTB webpage at <https://www.bontonbuilders.com/property/marian/>, is a copy of DAG's Plan No. 1377 / Forest Grove.

25) BTB's "Paige" work, which was distributed by the BTB webpage at

<https://www.bontonbuilders.com/property/paige/>, is a copy of DAG's Plan No. 1302 / Bluestone.

26) BTB's "Parker" work, which was distributed by the BTB webpage at <https://www.bontonbuilders.com/property/parker/>, is a copy of DAG's Plan No. 1563 / Henriette.

27) BTB's "Payton" work, which was distributed by the BTB webpage at <https://www.bontonbuilders.com/property/payton/>, is a copy of DAG's Plan No. 1559 / Millicent.

28) BTB's "Rachel" work, which was distributed by the BTB webpage at <https://www.bontonbuilders.com/property/rachel/>, is a copy of DAG's Plan No. 1328 / Bosworth.

29) BTB's "Raelle" work, which was distributed by the BTB webpage at <https://www.bontonbuilders.com/property/raelle/>, is a copy of DAG's Plan No. 1516 / Coppernorth.

30) BTB's "Rhiannon" work, which was distributed by the BTB webpage at <https://www.bontonbuilders.com/property/rhiannon/>, is a copy of DAG's Plan No. 1412 / Janson.

31) BTB's "Rowan" work, which was distributed by the BTB webpage at <https://www.bontonbuilders.com/property/rowan/>, is a copy of DAG's Plan No. 714 / Huntington.



- 32) BTB's "Edison" work, which was distributed by the BTB webpage at <https://www.bontonbuilders.com/property/edison-2/>, is a copy of DAG's Plan No. 1548 / Dahlia.
- 33) BTB's "Sage" work, which was distributed by the BTB webpage at <https://www.bontonbuilders.com/property/sage/>, is a copy of DAG's Plan No. 1548 / Dahlia.
- 34) BTB's "Sarah" work, which was distributed by the BTB webpage at <https://www.bontonbuilders.com/property/sarah/>, is a copy of DAG's Plan No. 1262 / Whitney.
- 35) BTB's "Shiloh" work, which was distributed by the BTB webpage at <https://www.bontonbuilders.com/property/shiloh/>, is a copy of DAG's Plan No. 1519 / Fillion.
- 36) BTB's "Eloise" work, which was distributed by the BTB webpage at <https://www.bontonbuilders.com/property/eloise-2/>, is a copy of DAG's Plan No. 1300 / Lennon.
- 37) BTB's "Fillion" work, which was distributed by the BTB webpage at <https://www.bontonbuilders.com/property/fillion-2/>, is a copy of DAG's Plan No. 1499 / Gellar.
- 38) BTB's "Gloria" work, which was distributed by the BTB webpage at <https://www.bontonbuilders.com/property/gloria-2/>, is a copy of DAG's

Plan No. 1029 / Greensboro.

39) BTB's "Hadley" work, which was distributed by the BTB webpage at <https://www.bontonbuilders.com/property/hadley-2/>, is a copy of DAG's Plan No. 1287 / Hardesty.

40) BTB's "Isbella" work, which was distributed by the BTB webpage at <https://www.bontonbuilders.com/property/isabella-2/>, is a copy of DAG's Plan No. 1289 / Peyton.

41) BTB's "Judson" work, which was distributed by the BTB webpage at <https://www.bontonbuilders.com/property/judson/>, is a copy of DAG's Plan No. 967 / Satchwell.

42) BTB's "Karden" work, which was distributed by the BTB webpage at <https://www.bontonbuilders.com/property/karden-2/>, is a copy of DAG's Plan No. 1556 / Artemis.

43) BTB's "Kaylee" work, which was distributed by the BTB webpage at <https://www.bontonbuilders.com/property/kaylee-2/>, is a copy of DAG's Plan No. 1285 / Marley.

44) BTB's "Larkin" work, which was distributed by the BTB webpage at <https://www.bontonbuilders.com/property/larkin/>, is a copy of DAG's Plan No. 983 / Jonesboro.

45) BTB's "Leigh" work, which was distributed by the BTB webpage at

<https://www.bontonbuilders.com/property/leigh/>, is a copy of DAG's Plan No. 1415 / Lucy.

46) BTB's "Caldwell" work, which was distributed by the BTB webpage at <https://www.bontonbuilders.com/property/caldwell/>, is a copy of DAG's Plan No. 1100 / Gilmore.

47) BTB's "Calvin" work, which was distributed by the BTB webpage at <https://www.bontonbuilders.com/property/calvin/>, is a copy of DAG's Plan No. 1419 / Cline.

48) BTB's "Carissa" work, which was distributed by the BTB webpage at <https://www.bontonbuilders.com/property/carissa/>, is a copy of DAG's Plan No. 502 / Delaney.

49) BTB's "Carlin" work, which was distributed by the BTB webpage at <https://www.bontonbuilders.com/property/carlin/>, is a copy of DAG's Plan No. 974 / Madaridge.

50) BTB's "Cassidy" work, which was distributed by the BTB webpage at <https://www.bontonbuilders.com/property/cassidy/>, is a copy of DAG's Plan No. 1406 / Roark.

51) BTB's "Cecily" work, which was distributed by the BTB webpage at <https://www.bontonbuilders.com/property/cecily-2/>, is a copy of DAG's Plan No. 1016 / Violet.

- 52) BTB's "Cole" work, which was distributed by the BTB webpage at <https://www.bontonbuilders.com/property/cole-2/>, is a copy of DAG's Plan No. 923 / Colthorpe.
- 53) BTB's "Curvin" work, which was distributed by the BTB webpage at <https://www.bontonbuilders.com/property/curvin-2/>, is a copy of DAG's Plan No. 973 / Smythe.
- 54) BTB's "Delilah" work, which was distributed by the BTB webpage at <https://www.bontonbuilders.com/property/delilah-2/>, is a copy of DAG's Plan No. 970 / Applemoor.
- 55) BTB's "Elijah" work, which was distributed by the BTB webpage at <https://www.bontonbuilders.com/property/elijah-2/>, is a copy of DAG's Plan No. 920 / Hillandale.
- 56) BTB's "Abbott" work, which was distributed by the BTB webpage at <https://www.bontonbuilders.com/property/abbott/>, is a copy of DAG's Plan No. 1163 / Sorenson.
- 57) BTB's "Abigail" work, which was distributed by the BTB webpage at <https://www.bontonbuilders.com/property/abigail/>, is a copy of DAG's Plan No. 1094 / Stonebridge.
- 58) BTB's "Adelle" work, which was distributed by the BTB webpage at <https://www.bontonbuilders.com/property/adelle/>, is a copy of DAG's

Plan No. 1177 / Kellson.

59) BTB's "Alfred" work, which was distributed by the BTB webpage at <https://www.bontonbuilders.com/property/alfred/>, is a copy of DAG's Plan No. 1313 / St. Regis.

60) BTB's "Berkeley" work, which was distributed by the BTB webpage at <https://www.bontonbuilders.com/property/berkeley-2/>, is a copy of DAG's Plan No. 1503 / Percy.

61) BTB's "Brinkeley" work, which was distributed by the BTB webpage at <https://www.bontonbuilders.com/property/brinkeley-2/>, is a copy of DAG's Plan No. 1244 / Chestnut Hill.

62) BTB's "Brooklee" work, which was distributed by the BTB webpage at <https://www.bontonbuilders.com/property/brooklee-2/>, is a copy of DAG's Plan No. 1153 / Valmead Park.

29. The BTB designs and images on the webpages described above will hereinafter be referenced as the "Infringing Works."

30. Each time a visitor went to the referenced BTB webpages, the BTB website distributed a distinct copy of a DAG Architectural Work and PGS Work from which DAG's copyright management information had been removed.

31. Each time a visitor went to the referenced BTB webpages, the BTB website distributed a distinct copy of a DAG Architectural Work and PGS Work

bearing a false title.

32. BTB similarly distributed copies of the Infringing Works via Instagram, and, upon information and belief, other social media channels.

33. On information and belief, each time a visitor went to a BTB Instagram, Facebook, or other social media page bearing a copy of one of the Infringing Works, the BTB Instagram, Facebook, or other social media page distributed a distinct copy of the associated DAG Architectural Work and PGS Work from which DAG's copyright management information had been removed.

34. On information and belief, each time a visitor went to a BTB Instagram, Facebook, or other social media page bearing a copy of one of the Infringing Works, the BTB Instagram, Facebook, or other social media page distributed a distinct copy of the associated DAG Architectural Work and PGS Work bearing a false title of the work.

35. On information and belief, BTB similarly distributed copies of the Infringing Works via e-mail.

36. On information and belief, each time BTB sent an e-mail bearing a copy of one of the Infringing Works, BTB distributed a distinct copy of the associated DAG Architectural Works and PGS Works from which DAG's copyright management information had been removed to each recipient of that e-mail.

37. On information and belief, each time BTB sent an e-mail bearing a copy

of one of the Infringing Works, BTB distributed a distinct copy of the associated DAG Architectural Work and PGS Work bearing a false title to each recipient of that e-mail.

38. On information and belief, BTB similarly distributed copies of the Infringing Works by other advertising means, including brochures and conventional advertising.

39. On information and belief, each time BTB distributed a copy of one of the Infringing Works by other advertising means, each such distribution distributed a distinct copy of the associated DAG Architectural Work and PGS Work from which DAG's copyright management information had been removed.

40. On information and belief, each time BTB distributed a copy of one of the Infringing Works by other advertising means, each such distribution distributed a distinct copy of the associated DAG Architectural Work and PGS Work bearing a false title.

41. DAG has never authorized BTB to reproduce or distribute copies of any of the Architectural Works or PGS Works.

42. DAG has never authorized BTB to remove or modify its copyright management information from the Architectural Works or PGS Works.

43. DAG has never authorized BTB or anyone else to use any titles for the Architectural Works or PGS Works other than those listed on DAG's website and

referenced in Paragraph 7 above.

44. On information and belief, BTB's removal or alteration of DAG's copyright management information as detailed above was intentional.

45. On information and belief, BTB's removal or alteration of DAG's copyright management information notice was done knowing, or having reasonable grounds to know, that it would induce, enable, facilitate, or conceal BTB's infringement of DAG's Architectural Works and PGS Works copyrights.

46. On information and belief, BTB's distribution of copies of the Infringing Works was done knowing that DAG's copyright management information had been removed or altered from such copies without DAG's authorization.

47. On information and belief, BTB's distribution of copies of the Infringing Works from which DAG's copyright management information had been removed or altered was done with BTB knowing, or having reasonable grounds to know, that such would induce, enable, facilitate, or conceal BTB's infringement of DAG's Architectural Works and PGS Works copyrights.

48. DAG has never authorized BTB to construct houses based on any of the Architectural Works or PGS Works. In the event BTB has done so, that would constitute additional acts of copyright infringement and violation of DAG's legal rights.



**COUNT I: COPYRIGHT INFRINGEMENT**

49. DAG complains of defendants for copyright infringement of its Architectural Works and PGS Works copyrights pursuant to 17 U.S.C. § 501. DAG incorporates by reference paragraphs 1-48 above.

50. BTB's creation of copies of any Infringing Work infringed DAG's copyrights in the Architectural Works and PGS Works, in that it violated DAG's exclusive right of reproduction.

51. Any creation of copies of any Infringing Work by a third party on behalf of BTB or at its direction or request infringed DAG's copyrights in the Architectural Works and PGS Works, in that it violated DAG's exclusive right of reproduction.

52. BTB's distribution of copies of any Infringing Work infringed DAG's copyrights in the Architectural Works and PGS Works, in that it violated DAG's exclusive right of distribution.

53. Any distribution of copies of any Infringing Work by a third party on behalf of BTB or at its direction or request infringed DAG's copyrights in the Architectural Works and PGS Works, in that it violated DAG's exclusive right of reproduction.

54. Any construction of houses by BTB based on any of the Architectural Works or PGS Works infringed DAG's copyrights in such Architectural Work or

PGS Work, in that it violated DAG's exclusive rights of reproduction and/or to create derivative works.

55. Any generation of construction plans by BTB that were based on any of the Architectural Works or PGS Works infringed DAG's copyrights in such Architectural Work or PGS Work, in that it violated DAG's exclusive rights of reproduction and/or to create derivative works.

56. Any generation of construction plans based on any Architectural Work or PGS Work by a third party on behalf of BTB or at its direction or request infringed DAG's copyrights in such Architectural Work or PGS Work, in that it violated DAG's exclusive right of reproduction and/or to create derivative works.

57. Any distribution by BTB of construction plans based on any of the Architectural Works or PGS Works infringed DAG's copyrights in such Architectural Work or PGS Work, in that it violated DAG's exclusive rights of distribution and/or to create derivative works.

58. Any distribution of construction plans based on any Architectural Work or PGS Work by a third party on behalf of BTB or at its direction or request infringed DAG's copyrights in such Architectural Work or PGS Work, in that it violated DAG's exclusive right of distribution and/or to create derivative works.

59. BTB is a contributory infringer for any acts of infringement described above that were committed by third parties at BTB's request or direction.

60. BTB is vicariously liable for any acts of infringement described above that were committed by third parties on behalf of BTB.

61. Forbes is vicariously liable for BTB's acts of copyright infringement and contributory infringement.

62. Pursuant to 17 U.S.C. § 504(b), DAG is entitled to recover its actual damages and all of BTB's profits attributable to its infringement of DAG's copyrights in the Architectural Works and PGS Works.

63. Alternatively, pursuant to 17 U.S.C. § 504(c), DAG is entitled to recover statutory damages from BTB for the infringement of each Architectural Work and PGS Work, including enhancements for willful infringement.

64. DAG is entitled to recover pre-and post-judgment interest, reasonable attorney's fees, and costs of court from BTB.

65. Forbes is vicariously liable for BTB's acts of infringement, and as such is jointly and severally liable for any judgment for copyright infringement and/or contributory infringement that is entered against BTB.

66. DAG is entitled to preliminary and permanent injunctive relief pursuant to 17 U.S.C. § 502 prohibiting Defendants from further infringement of DAG's Architectural Works and PGS Works copyrights.

67. DAG is entitled to an order pursuant to 17 U.S.C. § 503 directing the United States Marshal's Service to (a) impound, during the pendency of this lawsuit,

all copies of materials in any defendant's possession that infringe DAG's copyrights in an Architectural Work or PGS Work; and (b) upon final hearing of this case, to destroy or otherwise dispose of those copies.

**COUNT II: VIOLATIONS OF DMCA § 1202**

68. DAG complains of BTB for violations of DMCA § 1202(a). DAG incorporates by reference paragraphs 1-67 above.

69. Each removal of DAG's copyright management information from a copy of an Architectural Work or PGS Work was a violation of § 1202(b)(1) of the DMCA.

70. Each distribution of a copy of an Infringing Work was a violation of § 1202(b)(3) of the DMCA.

71. Each distribution of a copy of an Infringing Work bearing a false title was a violation of § 1202(a)(2) of the DMCA.

72. BTB is contributorily liable for any DMCA § 1202 violations described above that were committed by third parties at BTB's request or direction.

73. BTB is vicariously liable for any DMCA § 1202 violations described above that were committed by third parties.

74. Pursuant to 17 U.S.C. § 1203(c)(3)(B), DAG is entitled to recover statutory damages of between \$2,500 and \$25,000 from BTB for each violation of DMCA § 1202.

75. DAG is entitled to recover pre-and post-judgment interest, costs of court, and reasonable attorney's fees from each defendant.

76. Forbes is vicariously liable for BTB's DMCA § 1202 violations, and as such is jointly and severally liable for any judgment for DMCA § 1202 violations entered against BTB.

77. DAG is entitled to preliminary and permanent injunctive relief to prevent BTB from committing further violations of DMCA § 1202.

Wherefore, DAG requests judgment against BTB and Forbes as detailed above, and for such other relief as DAG may be entitled.

Respectfully Submitted,

/s/Tucker R. Hull

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